STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED July 31, 2003
v	No. 231398 Wayne Circuit Court
MILTON A. HARRIS, Defendant-Appellant.	LC No. 99-010817 ON REMAND

Before: Whitbeck, C.J., and O'Connell and Meter, JJ.

MEMORANDUM.

Defendant appealed by right from his convictions, following a bench trial, of second-degree murder, MCL 750.317, and possession of a firearm during the commission of a felony, MCL 750.227b. This Court affirmed defendant's convictions and sentences. See *People v Harris (Harris I),* unpublished opinion per curiam of the Court of Appeals, issued June 28, 2002 (Docket No. 231398). Defendant then appealed to the Supreme Court, and that Court, in accordance with Judge Meter's partial concurrence and partial dissent in *Harris I*, vacated the *Harris I* opinion in part, remanded the case to us, and directed that we, in turn, remand the case to the trial court for further factual findings regarding defendant's intent during the killing of the victim.[1] See *People v Harris*, 468 Mich 878, 878-879; 659 NW2d 240 (2003). On remand, the trial court made detailed findings indicating that it found defendant guilty of second-degree murder and not, as arguably intimated by its earlier findings, of voluntary manslaughter. We again affirm the conviction of second-degree murder.

Defendant's primary argument on appeal is that the trial court's factual findings supported a conviction for manslaughter but not for second-degree murder. However, on remand, the trial court clarified that it had *erroneously* used the words "hot blood" in describing defendant's state of mind and that, in actuality, defendant had the state of mind supporting second-degree murder. The trial court specifically found that the shooting did *not* arise from a reasonable provocation. It further found that sufficient time had passed between the anger-provoking incident and the shooting for defendant to have controlled his emotions. Accordingly, the findings do not support a conviction for voluntary manslaughter. See *People v Sullivan,* 231

[1] The Supreme Court did not vacate any other aspects of the original Court of Appeals opinion.

Mich App 510, 518; 586 NW2d 578 (1998), aff'd 461 Mich 992 (1999); see also *People v Darden*, 230 Mich App 597, 602; 585 NW2d 27 (1998) ("the absence of [adequate provocation] turns voluntary manslaughter into second-degree murder"). As contemplated by Judge Meter in *Harris I*, "the trial court [in its original opinion] merely worded its findings inartfully and fully concluded that all the necessary elements of second-degree murder were established . . . ." *Harris I*, *supra*, slip op at 3 (Meter, J., concurring in part and dissenting in part). The trial court's conclusion that defendant committed second-degree murder was fully supported by the record, and no basis for reversal is apparent.[2]

Affirmed.

/s/ William C. Whitbeck
/s/ Peter D. O'Connell
/s/ Patrick M. Meter

[2] Any additional issues raised by defendant on appeal – including the argument about the trial court's use of the word "could" in connection with its second-degree murder findings – were adequately addressed in *Harris I*, and we refer defendant to that opinion.